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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

10 Mark Clifford Sykes, Sui Juris,  
11 Plaintiff(s),  
12 v.  
13 Las Vegas Metropolitan Police  
14 Department of Clark County Nevada  
15 (LVMPD), Officer S. Hunt, badge number  
16 P#17602, Officer Smith, badge number  
P#9643, National Crime Information  
Center (NCIC), et al.  
Defendants.

Case No. 2:21-cv-01479-RFB-DJA

**United States of America's Reply in  
Support of its Motion to Set Aside  
Clerk's Entry of Default Against  
National Crime Information Center  
(NCIC)**

The United States of America files this reply in support of its motion to set aside the clerk's entry of default against National Crime Information Center (NCIC). Plaintiff Mark Clifford Sykes filed an opposition. ECF No. 48. In his opposition, the plaintiff argued that the United States lacked jurisdiction to represent NCIC, because NCIC is not an agency of the United States. *Id.*

23 NCIC contains criminal history information and is available to police departments  
24 nationwide. *Case v. Kitsap County Sheriff's Dept.*, 249 F.3d 921, 924 (9th Cir. 2001). State law  
25 enforcement agencies are connected to NCIC through their computer systems. *Id.* NCIC is  
26 maintained by the Federal Bureau of Investigation (FBI). *See* 28 U.S.C § 534, *see also*  
27 <http://www.fbi.gov/about-us/cjis/ncic>. NCIC is not a person or entity subject to liability.  
28 The law defines persons as including natural persons (i.e. human beings) as well as

1 corporations and political subdivisions. *Vontress v. Jo Gentry*, 2:17-cv-01791-RFB-NJK, 2018  
2 WL 10854569, fn. 1 (citing *Allen v. Clark Cnty. Det. Ctr.*, 2:10-cv-00857-RLH, 2011 WL  
3 197201\*4 (D. Nev. Jan 20, 2011)). Objects, such as an electronic criminal history  
4 information system, do not fit within this definition. Therefore, NCIC cannot be a party to a  
5 lawsuit, is not subject to liability, and a default judgment cannot be entered against it.

6 To the extent the plaintiff intends to sue the FBI, as the entity maintaining the NCIC  
7 database, he has not named the FBI as a party in his second amended complaint. “A  
8 defendant is not obligated to engage in litigation unless...brought under a court’s authority,  
9 by formal process.” *Murphy Brothers, Inc. v. Michetti Pipe Stinging, Inc.*, 526 U.S. 344, 347  
10 (1999) (citations omitted). Because the FBI is not a party, there is no service of process  
11 pursuant to Federal Rule of Civil Procedure 4(i) (A), (B) and 4(i)(2). Accordingly, neither  
12 the FBI nor the United States are obligated to respond to the plaintiff’s second amended  
13 complaint.

14 Accordingly, there is a good cause to set aside the clerk’s entry of default against  
15 NCIC under Rule 55(c).

16 Respectfully submitted this 25th day of July 2023.

17  
18 JASON M. FRIERSON  
19 United States Attorney

20 /s/ Virginia T. Tomova  
21 VIRGINIA T. TOMOVA  
22 Assistant United States Attorney